

Statutory Guidance: Injunctions to Prevent Gang-Related Violence

December 2010

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Crime Act 2009*

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1 Introduction

1.1 Background

This statutory guidance on injunctions to prevent gang-related violence draws on the experience and knowledge of the police service, local authorities and a wide range of local partners involved in dealing with violent gangs. It has been developed and approved by partners across the Criminal Justice System, as well as local practitioners. It has been produced after consultation with the Lord Chief Justice and the Master of the Rolls, and has been laid before Parliament by the Home Secretary.

The Policing and Crime Act 2009 ('the 2009 Act') contains provision for injunctions to prevent gang-related violence to be sought against an individual; the Crime and Security Act 2010 contains provision for breach of an injunction to be enforced against 14–17 year olds. This document provides guidance on the use of injunctions for those aged 18 and over only. It is envisaged that injunctions to address gang-related violence for 14-17 year olds will be piloted in 2011 and that this guidance will be updated accordingly.

1.2 Terminology used in the guidance

Throughout this guidance the term 'gang injunction' is used to refer to an injunction to prevent gang-related violence. The individual who is subject to a gang injunction, or against whom a gang injunction is being sought, will be referred to as the 'respondent'. The police force or local authority applying for a gang injunction will be referred to as the 'applicant'.

1.3 Purpose of the guidance

This statutory guidance is a practical tool intended to help local partners apply for and manage gang injunctions effectively and appropriately in accordance with the 2009 Act. It is for:

- local authorities and police forces who are seeking to apply for an injunction to prevent gang-related violence; and
- local partners who may be consulted by the applicant as part of the process. These may include, but are not limited to, registered social landlords, housing associations, transport agencies and youth offending teams (where the respondent has recently turned 18).

Local authorities and police forces are required by the 2009 Act to 'have regard' to this guidance and any subsequent revisions. It is good practice for other local partners to have read this document before contributing to the application process.

2 Gang injunctions: the basics

2.1 What are gang injunctions?

An injunction to prevent gang-related violence is a civil tool that allows the police or a local authority to apply to a county court (or the High Court) for an injunction against an individual to prevent gang-related violence. By imposing a range of prohibitions and requirements on the respondent, a gang injunction aims:¹

- to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence; and/or
- to protect the respondent from gang-related violence.

Over the medium and longer term, gang injunctions aim to break down violent gang culture, prevent the violent behaviour of gang members from escalating and engage gang members in positive activities to help them leave the gang.

Anyone seeking to apply for an injunction must have evidence that the respondent has engaged in, encouraged or assisted gang-related violence, and will need to be able to prove this on the balance of probabilities at court. Applicants will also need to convince the court that the gang injunction is necessary to prevent the respondent from being involved in gang-related violence and/or to protect the respondent from such violence. During the 2009 Act's passage through Parliament, it was made clear that gang injunctions are only intended to be used to prevent violence related to gangs. All applications must focus on gang-related violence rather than, for example, acts of anti-social behaviour, acquisitive crime or drug dealing involving gangs.

2.2 What is gang-related violence?

Section 34(5) of the 2009 Act defines gang-related violence as:

“Violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that:

- a) consists of at least 3 people;
- b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group; and
- c) is associated with a particular area.”

Gang injunctions are intended to be used against members of violent street gangs. However, setting out what is meant by ‘gang-related violence’ in legislation is a complex task. The nature and form of gang-related violence varies significantly between areas and is not easily captured by a single definition. The wording of the definition used in the 2009 Act is therefore intentionally broad and wide-ranging to ensure gang injunctions can be used

¹ Section 34(3) of the 2009 Act.

effectively in response to the different violent gangs encountered in different local areas.

It is important for applicants to have a sound understanding of the gang problem in their local area. This should be informed by intelligence from the community and local partners. Applicants may find it difficult to satisfy the court that the respondent has been involved in gang-related violence, and therefore to make a successful application, if they cannot demonstrate an understanding of the local gang problem.

2.3 Which groups are not suitable for gang injunctions?

Gang injunctions should only be used to prevent gang-related violence that is committed by groups that fall under the section 34(5) definition of a gang. Applicants should not seek injunctions against members of groups which do not fall under that definition.

2.4 Who can apply for a gang injunction?

Section 37 of the 2009 Act makes provision for an application to be made by:

- a) the chief officer of police for a police area;
- b) the chief constable of the British Transport Police Force; or
- c) a local authority.

For this purpose, 'local authority' means:

- a) in relation to England, a district council, a county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- b) in relation to Wales, a county council or a county borough council.

Chief officers of police may give their consent for applications to be made by other senior police officers on their behalf.

2.5 How do 'with notice' and 'without notice' applications differ?

An application for a gang injunction may be made 'with notice' (see Section 7.2) or 'without notice' (see Section 7.1) being given to the respondent.

For 'with notice' applications, applicants are required to notify the respondent of the application and to consult appropriate police forces, local authorities and other bodies and individuals. It is good practice to notify the respondent at the same time as submitting an application to the court. The notification and consultation requirement do not apply for 'without notice' applications. More detail on the consultation requirement and when it applies can be found in Section 3.

2.6 What prohibitions and requirements can gang injunctions impose?

A gang injunction can include any reasonable prohibition or requirement. Applicants will need to satisfy the court that these terms are necessary either to prevent the respondent from engaging in, encouraging or assisting gang-related violence, and/or to protect the respondent from gang-related violence. See Section 5 for guidance on injunction prohibitions and requirements.

2.7 How do gang injunctions fit with other measures to tackle gangs?

Gang injunctions are designed to be used in specific circumstances as part of a broader, strategic response to local gang problems. This response should include longer term measures to address the local gang problem.

Those involved in gang-related violence should be prosecuted under criminal law if there is sufficient evidence and this is in the public interest. However, there may be instances where criminal proceedings have not yet been brought and applying for a gang injunction may be an appropriate response. These instances could include where a criminal investigation is still ongoing or the Crown Prosecution Service (CPS) has yet to decide whether to charge an individual. Under these circumstances, gang injunctions may be able to offer the local community immediate relief from the problem of gang-related violence and to help respondents to leave the gang lifestyle. Applicants should ensure that they are in close and regular contact with the CPS where an injunction is being considered alongside potential criminal proceedings.

3 Consultation

Gang injunctions should be based upon and supported by multi-agency partnership working.

3.1 Consultation requirement for ‘with notice’ applications

For ‘with notice’ applications, the 2009 Act includes a ‘consultation requirement’. This requires the applicant to consult any local authority, chief police officer, and other body or individual that the applicant thinks it is appropriate to consult.

It is good practice for applicants to consult with all local authorities and police forces that have responsibility over the areas in which the respondent resides and which are covered by the terms of the injunction. Gang injunctions are unlikely to be enforceable without the support of these partners. The applicant may be asked by the court to provide proof that they have consulted appropriate police forces and local authorities, and should prepare a statement to be signed by these partners.

Applicants should also ensure that they consult the CPS to discuss any potential parallel criminal proceedings, to ensure the impact of one set of proceedings is considered in relation to the other, and to ensure a clear understanding of the rules of disclosure in relation to both proceedings and the consequences of adducing evidence.

Applicants are also required to consult any other body or individual that they think it appropriate to consult. These may include:

- youth offending services (YOS or YOTs) when the respondent has recently turned 18 and has had previous involvement with these services;
- probation services;
- the head teacher / principal of the respondent’s school / college;
- voluntary or other support services working with the respondent and/or their family or partner; and,
- the respondent’s housing provider/ association.

Once an injunction has been granted, the police and local authority will need to work closely with one another and with any other relevant local partners to ensure the injunction can be managed and enforced effectively.

3.2 Consultation requirement and ‘without notice’ applications

The consultation requirement in the 2009 Act does not apply in the initial stages of a ‘without notice’ application. However, if the court decides to adjourn the hearing, the applicant will need to meet the consultation requirement before the date of the first full hearing.

In any event, applicants should try to ensure that consultation takes place before a 'without notice' application if at all possible.

3.3 Managing the consultation process

It is good practice for applicants to use the consultation process to:

- identify whether the respondent falls within the 2009 Act's definition of a gang and any agreed, local understanding, and is involved in gang-related violence;
- establish whether a gang injunction is the most appropriate measure to prevent the individual's involvement in gang-related violence;
- identify the most appropriate injunction prohibitions and requirements to prevent the individual's involvement in gang-related violence;
- carry out a risk assessment to identify and mitigate the potential negative impacts of a gang injunction on the safety of the respondent, their family, partner(s), and associates;
- consider the needs of victims and witnesses and make appropriate provision for these; and
- gather evidence in support of a gang injunction.

Applicants will need to satisfy the court that any proposed prohibitions and requirements are effective, proportionate and enforceable. For example, if the applicant is a local authority, the court will want to hear whether the local police force has agreed to enforce compliance, including by informing the applicant of any suspected breach.

3.3.1 Risk assessment

The aim of a gang injunction is to prevent an individual from engaging in, encouraging or assisting gang-related violence; and/or to protect an individual from gang-related violence. Given this, it is good practice for applicants to consider whether any of the proposed prohibitions or requirements may compromise the safety of the respondent and their family, partner(s), or associates. For example, if a respondent is subject to a curfew or required to avoid contact with an individual, it is possible that this might present a risk to either the safety of the respondent or the individual in that it might remove them from the 'protection' offered by their gang against violence from rival gang members. This does not automatically mean that such a condition should not be included as the risk of violence to the respondent and the wider community of not doing so may be greater, but that it is good practice for applicants to carry out a full assessment of the risks to the respondent, their family, partner(s) or associates posed by any of the proposed terms of the injunction and put in place measures to address these. Further information on potential risks to female respondents, family members and associates is included in Section 6.

3.3.2 Duty to assess need for community care services

Local authorities have a duty under the NHS and Community Care Act 1990 to assess any person who may be in need of community care services. If there is any evidence to suggest that the respondent may be suffering from drug, alcohol or mental health problems or an autistic spectrum disorder, then applicants should engage with social services or other support agencies to ensure that this support is provided. Such support should run in parallel with the collection of evidence for an injunction application. This ensures that the court can balance the needs of the community with the needs of the respondent.

3.3.3 Confidentiality

It is good practice for all partners attending consultation meetings to be made aware that meetings are highly confidential and that the information discussed ought not to be divulged to any other party, including the respondent. Applicants may wish to seek legal advice with regards to data protection and how to respond to requests for minutes to be disclosed.

If applicants plan to invite a representative from a support service that works closely with the respondent and/or their family to the consultation meeting, they might consider inviting them only to the parts of the meeting where matters relevant to their service are discussed. This is particularly important during meetings in which more than one respondent is being discussed.

Care should also be taken not to name or identify any victims or independent/community witnesses during wider consultation meetings. Witness safety is paramount and in many circumstances identities may only be divulged at court. Applicants should not pre-empt any orders the court may make about non-disclosure. Further information on witness care can be found in Section 7.6.

3.3.4 Minutes

Minutes should be taken at all consultation meetings. A copy of the minutes should be distributed to partners as soon as possible, either by secure email or by post addressed for the attention of the attendee. They should be checked before distribution to ensure that they adhere to any local requirements on confidentiality.

4 Evidence gathering

4.1 Obtaining and reviewing evidence – general principles

Presenting evidence to the court is a matter of careful judgment by applicants and their legal advisers. Applicants should always bear in mind the need for careful consideration and judgment in presenting their cases, not least to avoid hearings being unnecessarily adjourned because cases are not ready or evidence is not available.

Applicants should remember that they are obliged to assist the court in actively managing cases in order to further the overriding objective of enabling a court to deal with cases justly (Civil Procedure Rules 1.3²).

Applicants will need to gather evidence in support of their application for a gang injunction. This evidence must demonstrate that:

- the respondent has engaged in, encouraged or assisted gang-related violence; and
- the gang injunction is necessary to prevent the respondent from engaging in, encouraging or assisting gang-related violence; and/or
- the gang injunction is necessary to protect the respondent from gang-related violence.

Presenting a multitude of elaborate documents is not necessarily advantageous. Indeed, a large volume of evidence and/or a large number of witnesses may lead to unnecessary delays in the process. Instead, it makes sense for applicants to focus on a few well-documented examples that provide evidence that the respondent has been involved in gang-related violence in the local area.

Where there is proof beyond reasonable doubt that an individual has been involved in gang-related violence, applicants should be liaising with the appropriate authorities to see whether they can assist in providing evidence for prosecution under criminal law.

4.2 Evidence for ‘with notice’ hearings

In compiling evidence for a ‘with notice’ application, applicants are advised to provide a general background on the respondent and their history of gang involvement, as well as evidence of specific incidents of gang-related violence. It is good practice to use consultations with appropriate local authorities, police forces and other partners to gather evidence in support of an injunction application.

² The Civil Procedure Rules (‘CPR’) are available at http://www.justice.gov.uk/civil/procrules_fin/menus/rules.htm.

4.3 Evidence for ‘without notice’ hearings

‘Without notice’ applications are likely to be made in response to specific threats of violence, and applicants are therefore unlikely to have adequate time to put together an extensive evidence pack before the hearing. Given that ‘without notice’ applications may be made in urgent circumstances and to tight timetables, the requirement to consult with appropriate local partners before the initial hearing is waived.

Time constraints will probably mean that the evidence will be brief, but applicants would usually be expected to show the court that they have intelligence relating to a specific threat or expected act of violence. It is likely that the evidence applicants present will be in written form, and this can include written witness statements.

4.4 Admissible forms of evidence

It is a matter for the court to decide what evidence is relevant or admissible in any particular case. However the court can determine that a wide range of evidence may be used by applicants, for example:

- direct evidence from witnesses (witness statements);
- hearsay evidence from community members and/or police officers;
- documentary evidence;
- statements from professional witnesses (for example council officials or health professionals) or other expert evidence;
- photographic, video or CCTV evidence, screen captures of gang members’ internet pages;
- previous relevant arrests or convictions;
- items seized during searches, such as clothing which identifies a respondent with a particular gang, letters to other members, etc.³

Although the court will decide in each case what evidence is relevant or admissible, it is advisable that applicants carefully consider what evidence they seek to introduce. Seeking to cast doubt on the respondent’s character through using unrelated evidence may not be well received by the court. For example, it is unlikely that evidence showing that the respondent has engaged in criminality that is not gang-related would be admissible. Evidence that the respondent has previously engaged in gang-related violence is much more likely to be ruled relevant and admissible.

First-hand evidence (i.e. evidence from a witness describing what they have seen or encountered) is preferable. The most effective evidence is that which comes directly from those living in communities directly affected by gang-related violence and who can identify the respondent as being a member of the gang and being involved in gang-related violence.

³ See Parts 32 and 33 of the Civil Procedure Rules on evidence.

4.5 Hearsay evidence

In the context of gang-related violence, the potential for intimidation is high and victims and witnesses may be too afraid to provide statements for fear of reprisal. The admissibility of professional witness and hearsay evidence is intended to help overcome this problem.

Hearsay evidence is that which is gathered by one person from another. This enables a statement to be made on behalf of a witness who does not wish to give first-hand evidence themselves. This can also allow the identities of those too fearful to give evidence to be protected. Such hearsay evidence could be provided by a police officer, healthcare official or any other professional who has interviewed the witness directly.

Whilst hearsay evidence cannot be excluded (at the request of defence lawyers) on the grounds that it is hearsay, applicants should remember that the weight given to hearsay evidence at court will tend to be less than that given to first-hand evidence (i.e. evidence provided directly by the person who witnessed the incident described). Similarly, more detailed hearsay statements may be given greater weight than those that are less detailed. Therefore, if a witness gives hearsay evidence without detailing the person who provided this information, this is likely to carry less weight than first-hand evidence from that person. Ultimately it remains a matter for the court to decide what weight, if any, to give a particular hearsay statement.

Where applicants intend to rely on hearsay evidence in the county court, they must act in accordance with Part 33 of the Civil Procedure Rules. Hearsay evidence at hearings other than trials does not generally require written notice. Applicants should note that the rules determining the admissibility of hearsay evidence in criminal and civil proceedings are not the same.

When presenting hearsay evidence to the court, applicants will need to ensure that they have undertaken a security risk assessment and implemented any necessary security measures. Section 7.5 provides more details on court security. More information on witness care can be found in Section 7.6.

4.6 Police intelligence

Police systems may contain intelligence relevant to an injunction application. This intelligence may indicate to the court the level of risk a respondent presents or provide information relating to their involvement in gang-related violence. Police intelligence may come from a number of sources and will likely be codified to show the reliability of the sources.

It is good practice for applicants to consider the operational implications of using police intelligence in court and to seek legal advice from force solicitors

around how best to use and present this evidence. If the applicant is a local authority, close liaison with police partners will be necessary in order to use information drawn from police intelligence. This information should be appropriately sanitised by the police before it is considered for sharing with partners or used in these proceedings. One way of minimising risk is to provide a statement with appropriately sanitised details of relevant intelligence. Consideration should be given to the quality, reliability, age and relevance of the intelligence and the consequences of that information being shared at court, including its potential to compromise a source or policing operation. Applications for Public Interest Immunity may be needed to address these risks. See section 7.7.1 for information on Public Interest Immunity applications.

In relevant cases, applicants should consider consulting the CPS, particularly when parallel criminal proceedings are ongoing or being considered. This consultation should take into account that parallel (or later) proceedings could affect what evidence is disclosed and therefore early consideration of these matters should help to reduce the number of unnecessary disclosure and/or Public Interest Immunity applications.

4.7 Standard of proof

Section 34 of the 2009 Act states that the court must be satisfied on the balance of probabilities that the respondent has engaged in, or has encouraged or assisted, gang-related violence. As this is the civil standard of proof, rather than the criminal standard of proof (beyond reasonable doubt), applicants will need to provide evidence that it is more likely than not that the respondent has engaged in, or has encouraged or assisted, gang-related violence.

Applicants should remember that the standard of proof for proving a contempt of court (i.e. that the respondent has breached a condition of the injunction) is 'beyond reasonable doubt'.

5 Drafting the terms of the injunction

Applicants may apply for any reasonable prohibition or requirement, provided that it does not:⁴

- conflict with the respondent's religious beliefs; or
- interfere with the times, if any, at which the respondent normally works or attends any educational establishment.

In deciding upon which prohibitions and requirements to include, it is good practice for applicants to consider the following:

- Does the evidence show that the prohibitions and requirements are necessary to prevent gang-related violence or protect the respondent from gang-related violence?
- Are they targeted at the needs and behaviour of this particular respondent?
- Are they enforceable?
- Are they clear, concise and easy for the respondent and partners to understand?
- Do they have any implications for the respondent's human rights?
- Will they have the effect of protecting and reassuring the public?

A draft of the proposed gang injunction terms must be included in the N16A application form, which should include all proposed prohibitions and requirements, their duration and any powers of arrest to be attached. Applicants will need to be prepared for the court to examine each prohibition and requirement, and will need to be able to justify how each of these is necessary to prevent the respondent from engaging in, encouraging or assisting gang-related violence.

5.1 Length of prohibitions

As with all other conditions, the duration of each prohibition should be determined according to the unique circumstances of each case. The length of a prohibition should be designed so as to make the injunction as effective as possible at preventing gang-related violence, whilst being mindful of the rights of the respondent and the need of the injunction to be fair and proportionate.

There is no minimum duration for an injunction or any conditions contained within. However, no prohibition or requirement can be ordered to last for more than two years. Additionally, if any prohibition or requirement in the injunction is to have effect for more than one year (beginning with the date the injunction is granted), the court must order the applicant and the respondent to attend a review hearing within the last 4 weeks of the one year period.

⁴ Section 35(5) of the Policing and Crime Act 2009.

5.2 Examples of prohibitions

These examples are based on the suggested prohibitions in the 2009 Act. The suggestions in section 35(2) of the 2009 Act are not exhaustive and therefore applicants may apply for any reasonable prohibition.

5.2.1 Non-association

A respondent may have been involved in gang-related violence with certain individuals in the past and be shown to be at risk of future involvement in gang-related violence with them. In these circumstances, applicants may wish to consider prohibiting a respondent from associating in public with named gang members.

However, difficulties with enforcing this prohibition may arise if the respondent is closely related to the other members of his/her gang or is required to be in their presence. These difficulties may arise if, for example, they attend the same educational institution, workplace or place of religious worship, or are in a relationship or have a child together. In such situations, the prohibition will need to be imposed and enforced carefully and sensitively, and it may be that association with named individuals may be acceptable at particular times, dates or places.

It would be more difficult to justify before a court why a non-association provision should extend to private spaces, and applicants would need to demonstrate why such a condition is both necessary and proportionate. Where such a prohibition is considered appropriate, it may be difficult to monitor and enforce. In such cases, evidence from neighbours, housing authorities, or police officers will be integral in monitoring compliance with the terms of the injunction.

5.2.2 Exclusion zones

An exclusion zone prohibits the respondent from visiting or travelling through a particular area or areas. Applicants should be able to demonstrate that such a prohibition is both proportionate and enforceable (i.e. not excluding a respondent from the entire area in which they live, work or study). Excluding a respondent from the entirety of their gang's territory could push the respondent into the territory of a rival gang, putting them at risk of harm.

It is good practice to include a map as part of the application that clearly shows the proposed exclusion zone. This map should be based on the locations of any gang-related incidents that the respondent has been involved with in the past (and on which the applicant intends to rely in the application for the injunction). These areas will most likely fall within the respondent's 'gang territory'.

If the proposed exclusion zone covers areas in which the respondent lives, works, studies or worships (or engages in any other reasonable activity), the applicant will need to allow for a clear travel route to and from these locations. The respondent will also need to provide details of any other locations or appointments they will need to attend during the period of the injunction so that acceptable arrangements can be made to facilitate this. Having realistic and clearly identified routes and agreed arrangements will make exclusion zones significantly easier to enforce.

Where there is a history of the respondent being involved in gang-related violence against 'rival' gangs, it may be appropriate to prevent the respondent from entering the rival gang's 'territory'. However the applicant will need to be able to justify this. An example of when this might be justified is if a critical incident has occurred where the victim was one of the respondent's close associates and it is believed that the respondent will be looking to exact revenge on the rival gang in an imminent attack which, may in turn, make the respondent a victim of a reprisal attack.

5.2.3 'Gang colours' and other identifying features

The 2009 Act includes in its definition of a gang the necessary condition that the group 'uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group'.⁵ These identifiers can also be intimidating to others and provoke violent reactions from rival gangs. In these circumstances, applicants may wish to seek to prohibit the respondent from wearing particular colours or types of clothing that identify them as a gang member.

To successfully apply for such a prohibition to be included in an injunction without disproportionately infringing the respondent's civil liberties, the applicant will need to demonstrate that the respondent is a member of a particular gang that is identifiable through a particular colour, item of clothing or other identifier, and that preventing the respondent from wearing this item will help to prevent gang-related violence.

5.2.4 Dangerous dogs and other animals

Gang members may use dogs and other species of animal to incite fear, intimidate others or to commit acts of violence. In these circumstances, applicants may wish to consider prohibiting the respondent from being in charge of a particular species of animal or from being in a particular place with a particular species of animal.

⁵ Section 34(5) of the Policing and Crime Act 2009.

5.2.5 The use of the internet and other technologies

There may be cases where the respondent is using, or has in the past used, the internet to encourage or assist gang-related violence. This may include posting videos that promote their gang or threaten rival gangs on video-sharing websites, or uploading details of gang 'meet-ups' on social networking websites. In such cases, it may be appropriate for the injunction to impose a prohibition restricting the use of the internet.

If such a condition is to be included in the injunction, the applicant will need to be able to satisfy the court that the prohibition is proportionate and can be effectively monitored.

5.3 Requirements

Applicants may also apply for any reasonable requirement. The 2009 Act suggests a range of requirements, which may have the effect of requiring the respondent to:

- notify the person who applied for the injunction of the respondent's address and of any change to that address;
- be at a particular place between particular times on particular days;
- present himself or herself to a particular person at a place where he or she is required to be between particular times on particular days; and
- participate in particular activities between particular times on particular days.

When proposing requirements to be included in an injunction, applicants should remember that no requirement can require a respondent to be in any particular place for more than 8 hours in any one day. Applicants should not seek to circumvent this, for example by proposing that the respondent must be in place A for 8 hours, place B for 8 hours and place C for 8 hours, thereby regulating every hour in the day.

Importantly, applicants are required by the 2009 Act to ensure that any requirements, as far as practically possible, avoid:

- any conflict with the respondent's religious beliefs; and
- any interference with the times, if any, at which the respondent normally works or attends any educational establishment.

5.3.1 Positive requirements

Over the medium to long term, gang injunctions are intended to help respondents leave the gang. Applicants may apply for positive requirements that work towards this aim and are encouraged to think creatively and carefully about those that they propose. Applicants should ensure that they are tailored to the individual circumstances of each case. This means taking

into account specific characteristics such as ethnicity and gender that could require the involvement of specialist services.

In practice, such requirements could translate to require the respondent to attend mediation with rival gang members; attend anger-management, relationship or other behavioural sessions; adhere to a curfew (where there is evidence that gang-related violence occurs at particular times); attend a 'call-in', job-preparedness coaching or any other coaching/counselling sessions; or any other requirements as the court sees fit. The 2009 Act allows for maximum flexibility on this point to enable positive activities to be tailored to each case and address the respondent's individual circumstances, behaviour and needs. The positive requirements should help the applicant and partner agencies work together to ensure that by the time the injunction comes to an end, the respondent has a realistic and appealing alternative to being part of a violent gang.

Pre-application consultations should explore the options for positive requirements, including considering the types of positive activities that are available in the local area, how these might help prevent gang-related violence in the particular case of the respondent and how compliance with such activities could be monitored and enforced. Applicants will need to be in a position to tell the court what is available, who will be responsible for the provision of the activity or monitoring the requirement and how compliance will be enforced.

5.4 Power of arrest

The court can attach the power of arrest to any injunction prohibition or requirement, except the requirement that the respondent participates in a particular activity. The 2009 Act is framed in this way because it was not considered proportionate to have an automatic power of arrest for non-attendance at mentoring sessions or other particular activities. In these circumstances, it was considered more appropriate to rely on the applicant's ability to apply for a warrant of arrest under section 44 of the 2009 Act or the ability to commence breach proceedings (see section 10.4 below) whereby the respondent will be served with the application notice for an order of committal.

In the same way that applicants will need to consider which prohibitions and requirements are most appropriate in each case, they will also need to consider, and recommend to the court, which of these should carry a power of arrest. If applicants think it appropriate for a power of arrest to be attached to any prohibition or requirement, they should support this by way of written evidence demonstrating why the power is necessary and proportionate. Such evidence may indicate that there is a high level of risk that the respondent will breach the conditions of the injunction (e.g. evidence of previous non-compliance with other police or court orders), as well as the level of risk the respondent poses to the community should any of the conditions of the injunction be breached (e.g. a history of violent behaviour towards others).

Applicants should be aware that applying to the court to attach the power of arrest to any condition could lessen their control over breach proceedings. Where no such power is attached, the decision to pursue breach proceedings rests with the applicant. However, where a power of arrest is attached, the arrest of a respondent for breach may be likely to result in breach proceedings.

Please see Section 10.5 of this guidance for further details relating to power of arrest.

6 Women and gangs

6.1 Women's involvement in gangs

Most respondents are likely to be male (the majority of gang members are male). However, any injunction application made against a gang-involved woman should take account of the particular needs and experiences of women in the gang context, which are often very different to those of men.

In addition, gang injunctions may affect women who are associated with male respondents. Sisters and partners of male respondents, for example, may be placed at risk if they lose the 'protection' of their partner or brother when he becomes subject to an injunction. Applicants are encouraged to consider these issues as part of their wider risk assessment before making an application.

Women can be involved in gangs in a number of ways, all of which impact significantly on their lives, including as:⁶

1. Perpetrators: participating in, or encouraging gang violence alongside male gang members;
2. Victims: partners, sisters and mothers can be targeted by gangs. For example, if a debt is owed to a gang, women who are associated with the debtor may be targeted to pressure the debtor to 'pay up'. Women associated with rival gangs can also be targeted with violence (including sexual assault and rape);
3. Associates: partners, sisters and mothers might be involved with hiding drugs and weapons, acting as 'couriers', washing blood-stained clothing, etc. Even where they have no formal involvement, partners can serve to 'glamorise' gang members, and to put pressure on them to provide the material wealth and lifestyle associated with this type of criminal behaviour.

6.2 Issues to consider when applying for a gang injunction against a female respondent

It is good practice for applicants to ensure that the injunction is tailored to the specific circumstances of the respondent and is understood as part of a broader strategy. Although by no means exhaustive, the list below outlines specific issues that applicants should consider when dealing with a female respondent:

⁶ Home Office, Tackling Gangs: A Practical Guide for Local Authorities, CDRPs, and Other Local Partners (2008).

- Applicants are more likely to apply for an injunction against a female respondent for 'encouraging' or 'assisting' gang-related violence, rather than for 'engaging' in such violence directly. Female respondents may not immediately recognise that they are doing anything wrong because they themselves may not be committing acts of gang-related violence. They may also be being coerced by a partner or sibling to engage or assist in such violence. Before these women are faced with an injunction, it is important that efforts are made to educate them about the harm that their involvement in gangs is causing and to raise awareness of the support services available to them in their local area.
- A woman involved with a gang may have close personal relationships (whether romantic or through family ties) with other gang members. This will need to be taken into account when applicants propose injunction prohibitions and requirements, to ensure that the injunction can meet its aims without disproportionately infringing upon the rights of the respondent. When there are romantic relationships, or a child/children, between individuals against whom a clause of non-association has been ordered, there is a high likelihood of breach. In such situations, the prohibition will need to be imposed and enforced carefully and sensitively, and it may be that association may be acceptable at particular times, dates or places.
- When applicants propose injunction requirements for a female respondent, they will need to recognise that rehabilitative services are often specifically geared towards men. These services are unlikely to capture many of the issues commonly associated with gang affected women, including those related to sexual violence, relationships and raising children with gang members. Placing a female respondent into this environment may be counterproductive. It may increase the risks that she faces, especially if taking part in group work with males, and can further isolate her from services if she feels misunderstood or unable to engage meaningfully with interventions. Applicants should therefore carefully consider which services in the local area will be most appropriate in helping a female respondent exit the gang lifestyle. If applicants are unable to identify suitable services, they ought to consider commissioning such services to allow for the aims of the injunction to be met.
- The personal safety of a female gang member will also need to be considered before she is prohibited from associating with her friends/partner in a gang, as she may consider herself to be reliant upon them for protection. Applicants should be particularly cautious about publicising the details of individual gang injunctions where women may be involved or vulnerable. Section 12 of this guidance provides further advice in relation to publicising injunctions.

7 Applying for an injunction

The 2009 Act provides for applications to be made ‘with notice’ or ‘without notice’ to the respondent.

7.1 ‘Without notice’ hearings

The 2009 Act gives applicants the right to apply for injunctions without giving notice to the respondent against whom the injunction is being sought.

Applications ‘without notice’ should not be routine, and should not be used in place of adequate preparation for ‘with notice’ hearings. A ‘without notice’ application may be appropriate under the following circumstances:

- if urgent injunctive relief is necessary to prevent gang-related violence;
- if there is a significant risk the respondent may flee if given prior notice of an injunction application; or
- if giving notice of an injunction application would be likely to put witnesses at risk of harm.

A ‘without notice’ application might be appropriate, for example, in a situation of escalating tensions between gangs where there is intelligence to indicate that reprisal acts of violence are imminent. In this instance the applicant might seek an injunction against either the likely victim or perpetrator of anticipated violence, to prevent them from crossing into another gang’s territory.

A ‘without notice’ application for an interim injunction is more likely to be granted if the applicant is able to present evidence that specific acts of violence are likely to occur, rather than relying more generally on a respondent’s history and character suggesting that they are involved in gang-related violence habitually.

If an application is made ‘without notice’, the court can either dismiss the application or adjourn the hearing. The court does not have the power to grant a full injunction at a ‘without notice’ hearing. If the hearing is adjourned, the court has the power to grant an interim injunction. Therefore, if applicants are applying for a ‘without notice’ injunction and want the court to grant an interim injunction, they should ensure that the application not only presents the case for the application but also explains why an interim injunction is necessary.

Applicants should note that an interim injunction can include any provision a full injunction can include except for the requirement to participate in particular activities. The interim injunction can include the power of arrest. If the applicant wishes to apply for the power of arrest to be attached to any of the terms of the injunction, they will need to make this clear in the draft injunction they hand up to the judge, as well as in the application form.

The court will then adjourn until a full hearing can be held, before which the respondent must be notified.

7.2 'With notice' hearings

In 'with notice' cases, applicants are required to notify the respondent of their application, as well as to consult appropriate police forces, local authorities and other bodies and individuals. Section 3 contains more detail on the consultation requirement.

If applying for an injunction 'with notice' to the respondent, applicants should be aware that it is possible that the matter will not be resolved at the first hearing date. This could be because the respondent wants to obtain legal representation in order to contest the injunction application or that the hearing needs to be adjourned for witnesses to attend. However, applicants should not assume that the hearing will be adjourned and should be ready to proceed with a full application.

When adjourning the hearing, the court has the power to grant an interim injunction if it is just and convenient to do so.⁷ Applicants should be prepared for the hearing to be adjourned and therefore ready to assist the court as to whether it is just and convenient to grant an interim injunction. A 'with notice' interim injunction can include any prohibition or requirement that the court can order under a full injunction and can include a power of arrest.⁸

Section 8 of the guidance provides information relating to the service of injunctions on respondents.

7.3 The process of applying for an injunction

Section VIII of Part 65 of the Civil Procedure Rules and Practice Direction 65 set out the process for applying for a gang injunction. Different procedures apply for 'with notice' and 'without notice' applications.

7.3.1 Documents to be provided to the court

The lead individual in charge of the case should arrange for the application form (Form N16A) to be completed and filed at the court. This should be submitted alongside a draft of the proposed gang injunction and a brief overview of evidence to support the application. Detailed evidence should be reserved for the hearing.

⁷ Section 40(2) of the Policing and Crime Act 2009.

⁸ Section 40(3) of the Policing and Crime Act 2009.

7.3.2 Fee to be paid

Please refer to the Civil Proceedings Fees Order 2008 for details of the application fee. An up-to-date indication of the fee amount can be found in the HMCS leaflet – *EX50 Civil and Family court fees*.⁹

7.3.3 How to prepare a court file for an application

Applicants are advised to prepare a court file to support their application. A minimum of five bundles may be prepared as follows:

- one for the court;
- one for the applicant's solicitor;
- one for the witness box;
- one for the respondent's solicitor (for 'with notice' applications only); and
- one for the respondent; (for 'with notice' applications only).

The files should be in loose-leaf format (in an A4 ring binder) and should be indexed and the pages numbered. The index and contents should include, as appropriate:

- the application for the injunction including a draft injunction for approval by the court;
- the respondent's details;
- a summary of the incidents being relied upon in the application;
- a map and description of any exclusion area included as part of the injunction;
- an association chart (showing relationships and connections of the respondent's gang and any other relevant individuals);
- documentation of statutory consultation;
- disclosed documents;
- witness statements and
- any other relevant documentation.

According to the Civil Procedure Rules, the respondent and their solicitor (if they are legally represented) must be served with a copy of the completed application and supporting documents.¹⁰ It is good practice for this bundle to also include guidance on how the respondent can obtain legal advice and representation (see section 7.8 of this guidance), and a warning that it is an offence to pervert the course of justice through intimidating witnesses. When an application is made on notice, the respondent must be personally served with the application notice and a copy of the witness statement.¹¹ For other supporting documents, wherever possible, it is advisable that service is made

⁹ Available at http://www.hmcourts-service.gov.uk/courtfinder/forms/ex50_e.pdf.

¹⁰ Part 8 of the Civil Procedure Rules.

¹¹ CPR 65.43(5)

on the respondent in person. If personal service is not possible, the application should be served by post as soon as possible to the last known address.

The bundle should be prepared and served on the respondent or the respondent's solicitor, if s/he is represented, as soon as the application notice is served. The applicant's solicitor should attempt to have the contents of the bundle agreed prior to any pre-trial review. Disclosure should be transparent and complete, unless a Public Interest Immunity application has been made and granted.

7.4 Courts to which an application may be made

Applications for injunctions can be made to a county court or the High Court. Applications submitted to a county court should be made to the court with jurisdiction over the area in which the respondent resides or where the gang-related violence occurs.¹² A county court can impose prohibitions or requirements which have effect beyond the district of the county court in which the application is heard.

7.5 Courts at which an application may be heard: security considerations

Applicants should take security concerns into account throughout the entire injunction process. The greatest risks to court security are likely to be at full injunction or breach hearings, but applicants should also mitigate any potential risks associated with 'without notice' hearings. For all applications, it is the responsibility of applicants to liaise with courts well in advance of hearings to talk court staff through their risk assessment (and update this where necessary) to help the court come to a decision about the appropriate venue and ensure that the necessary facilities are in place.

The applicant should work with the police and court staff to ensure that measures are in place to respond to any security risk(s). These risks might include:

- the listing of members of rival gangs in the same court building on the same day;
- the safety of witnesses and other community members; and
- the safety of court staff.

The police should be prepared to provide a visible presence at the court should this be deemed necessary.

¹² CPR 65.43(2)(b).

Unless the court to which an application has been made orders otherwise, a 'with notice' application for an injunction or any other hearing requiring the respondent's attendance must be heard at one of the following county courts:

- (a) Birmingham
- (b) Bradford
- (c) Bristol
- (d) Cardiff
- (e) Croydon
- (f) Leicester
- (g) Liverpool
- (h) Manchester
- (i) Newcastle
- (j) Nottingham
- (k) Peterborough
- (l) Portsmouth
- (m) Preston
- (n) Sheffield
- (o) West London.¹³

These court centres were identified by HM Court Service (HMCS) as offering some of the security facilities and special measures necessary to hear cases involving potentially violent individuals. These include:

- courtroom layout – ensuring that the layout provides adequate security measures to create a safe environment;
- witness facilities – to create separate waiting areas for witnesses so that they do not come into contact with respondents;
- secure cells – ensuring that secure accommodation is available to hold respondents pending any hearing/breach etc;
- special measures – to assist vulnerable/intimidated witnesses e.g. screens preventing the respondent seeing the witness or video-link; and,
- access to a witness support team.

Applicants should be clear about which of the security measures listed above will be necessary as it is unlikely that a case will require all of the measures.

Applicants will need to liaise closely with court staff at the earliest possible opportunity to establish which of the specified courts have the facilities most appropriate to their particular case and recommend these courts in their application.

Applicants may also want to consider whether the local county court is appropriately equipped to deal with this particular case and could therefore order that it retains the matter. This might be relevant where applicants do not consider, on the information available, that the respondent will be violent in a court setting or that any witnesses are fearful – this will very much depend on

¹³ CPR PD 65 para 1.2.

the information applicants have about the particular respondent and any decision rests with the court.

The court to which the application is made has the power to order that a hearing occur at another court not listed above, but will be responsible for ensuring that the alternative venue has adequate security measures in place. The applicant must be prepared to assist the court with what security measures any other proposed court has available to it.

The judge has the power to transfer an injunction hearing to a different location if he/she believes that adequate security arrangements are not in place. This could include moving it to a different court room (e.g. an available Magistrates' court room), transferring one particular hearing to another county court or transferring the entire case to another county court.¹⁴

7.6 Witness care

Witnesses who are willing to give evidence in court provide the best form of evidence and, where possible, should be encouraged to come forward. However, witnesses often feel anxious about giving evidence in cases such as these. Their concerns may include the prospect of appearing in court, coming face to face with gang members or being threatened by them.

Applicants should take steps to ensure the protection of witnesses, including protecting their identity where appropriate. This means ensuring that any evidence provided does not inadvertently reveal the identity of the witnesses. Applicants should be aware that the court has the power to order that the identity of any party or witness must not be disclosed if it considers non-disclosure necessary in order to protect the interests of that party or witness.¹⁵ Applicants should also be aware of recent case law which emphasises that any order of anonymity should not just be continued automatically, but that the need for the order in the particular circumstances should be reviewed at the earliest suitable opportunity.¹⁶ In addition, any grant of anonymity in civil proceedings should not be taken to imply that a similar grant of anonymity would be granted in any potential criminal proceedings.

Several options are available to applicants if they are concerned about the security of witnesses. These include applying to the court for special measures, transferring hearings to a more secure court and requesting that the court protect witnesses' identities. More details on these options is provided below. Applicants should consider each of these options and justify to the court which if any should be granted. Applicants would need to convince the court that the measure(s) are necessary and proportionate to their security concerns.

¹⁴ CPR 30.3(2)(f)(iii).

¹⁵ CPR 39.2.

¹⁶ *Secretary of State for the Home Department v AP (No. 2)* [2010] UKSC 26; *Grey v UVW* [2010] EWHC 2367.

The court may give permission for a witness to give evidence with the assistance of special measures, as the applicant suggests or the court sees as appropriate.¹⁷ Special measures may include:

- screens to shield the witnesses whilst entering the courtroom and standing in the witness box;
- a live link to enable the witness to give evidence during the hearing from outside the court through a televised link to the courtroom;
- evidence given in private by excluding from the court members of the public and the press; and
- voice distortion measures.

If applicants consider that the witness is central to the evidence for the application, but that any special measures considered necessary are not available at that particular court, the onus is on applicants to investigate where such measures may be available. If measures are available at another court, applicants can invite the court to transfer the hearing to that court.¹⁸

If applicants consider that the available special measures will not be sufficient, they should consider asking the court to order that witness identities should not be disclosed. Applicants would need to justify to the court why this is necessary, justified and proportionate.

Applicants should also consider at the earliest possible stage whether a witness may need or benefit from an interpreter at court if English is not their first language.

Other means of supporting key witnesses include: engagement in face-to-face meetings (this could apply also to those witnesses who do not wish to give a statement or attend court); ensuring they are made aware of what to expect, including practical information about the court layout and how proceedings will run, seeing where they and the respondent will be seated, and practical demonstrations of the appropriate special measures; transport to and from the court or being met by a police or council officer when they arrive.

It should be remembered that applicants are responsible for presenting their case to the court and this includes being responsible for the witnesses they rely on.

7.7 Disclosure

Before evidence is disclosed, the applicant should consult the police and other partners to ensure that all reasonable steps have been taken to support witnesses and minimise any potential for witness intimidation. Evidence should not be disclosed without the express permission of the witness. However, evidence that is not disclosed cannot be relied upon.

¹⁷ CPR 32.3. For guidance on special measures, see Crown Prosecution Service website, http://www.cps.gov.uk/legal/s_to_u/special_measures/.

¹⁸ CPR 30.3.

Where appropriate, the applicant should seek to maintain witness anonymity and ensure that witnesses are not identified by default (for example, through details of location, ethnicity, age or other personal characteristics).

Applicants should be aware that current provisions in the Civil Procedure Rules allow for public access to court documents in a number of cases.

7.7.1 Public Interest Immunity applications

All evidence which is to be relied upon during an application must be disclosed to the other side. The only exception to this is in cases where a Public Interest Immunity ('PII') application has been made and granted. A PII application must be made in accordance with Rule 31.19 of the Civil Procedure Rules, which enables an application to be made, 'without notice', for an order permitting the applicant to withhold disclosure of a document on the ground that disclosure would damage the public interest. PII applications must present a considered case as to why disclosure of the particular document would damage the public interest. Where possible, injunction applicants should consider whether a PII application is appropriate well in advance of court hearings.

7.8 Legal aid for respondents

Legally aided representation for respondents is available as part of the civil legal aid scheme, subject to means and merits tests. A solicitor, or a member of a law centre or Citizens Advice Bureau, will be able to advise respondents whether they are eligible for legal aid funding. Applicants can also check their financial eligibility for legal aid by using the online eligibility calculator, which is available at www.communitylegaladvice.org.uk. If a solicitor is willing to act for the respondent, they will be able to apply for funding on their behalf. The civil legal aid scheme is administered by the Legal Services Commission.

Information about which solicitors undertake legally aided work can be found in the Community Legal Service Directory, which is available in most reference libraries and Citizens Advice Bureaux, or by calling 0845 345 4 345, or visiting www.communitylegaladvice.org.uk. Respondents may also find it helpful to consult local information directories or the Yellow Pages. Another source of information about solicitors is the Solicitors' Regional Directory. The Law Society also provides a database of solicitors, which can be accessed by visiting www.lawsociety.org.uk/choosingandusing/findasolicitor.law or by calling 0207 242 1222.

8 Serving the injunction on the respondent

Once an injunction has been granted, it must be served personally on the respondent.¹⁹

If applicants obtain the injunction at a hearing where the respondent is present, they should consider asking the court to order that the respondent remain on the court premises until they are served with the injunction. This should reduce the time spent trying to locate the respondent later on and means that it is less likely that service will become a live issue at a later hearing.

It is essential that the respondent understands the nature and precise details of the terms of the injunction. In particular, it is good practice to include a map which clearly shows any exclusion zones. It may be appropriate for the police (either as the applicant or on behalf of a local authority applicant) to drive the respondent around the restricted area, physically pointing out the areas named in their injunction. If the applicant is the local authority, this step should be taken in collaboration with the police, ensuring that adequate security measures are in place.

Where a respondent has not been personally served with the injunction at the court, applicants will be responsible for arranging personal service as soon as possible thereafter.

In 'without notice' hearings, proof of service of an injunction is important since any proceedings for breach may fail if service is challenged by the respondent and cannot be proved by the applicant.

¹⁹ Unless the court orders otherwise.

9 Variation, discharge and review of injunctions

The 2009 Act²⁰ contains provisions for the variation, discharge and review of injunctions. The court has the power to vary or discharge an injunction at a review hearing, or upon application by either the respondent or the applicant. The applicant should keep the injunction under active review, and update the case file accordingly, so as to allow applications for variation or discharge to be made effectively. The injunction applicant should notify the people and organisations they consulted as part of the application process. If the court orders a variation or discharge of an injunction, the applicant should immediately inform their police and local authority partners and deliver a copy of this order to them. If an application to vary or discharge an injunction is dismissed, no further application to vary or discharge it may be made by any person without the consent of the court.

9.1 Variation of an injunction

Applicants may consider applying to vary an injunction in response to changes in the respondent's behaviour and activities, including changes in their associations and the places in which they are suspected of engaging in gang-related activity.

The powers of the court to vary an injunction include:²¹

- to include an additional prohibition or requirement in the injunction;
- to extend the period for which a prohibition or requirement has effect; and
- to attach a power of arrest or extend the period for which a power of arrest attached to the injunction has effect.

When applying to vary an injunction by placing an additional prohibition or requirement on the respondent, applicants must show that the variation is necessary, either to prevent the respondent from engaging in, or being a victim of, gang-related violence. This must be shown on the balance of probabilities. Applicants may apply for a variation of the injunction without giving notice to the respondent, but must state in the application why it was necessary not to give notice.²²

9.2 Discharge of an injunction

An application may also be made by the applicant or respondent to discharge an injunction. Applicants should consider applying to discharge an injunction when they believe the aims of the injunction have been met. This will be when the injunction is deemed no longer necessary to prevent the respondent from

²⁰ As amended by section 37 of the Crime and Security Act 2010.

²¹ Section 42(3) of the Policing and Crime Act 2009.

²² CPR 65.45 .

engaging in, encouraging or assisting gang-related violence, or to protect the respondent from such violence. The court will need to see evidence that this is the case. Progress the respondent has made in improving their behaviour, refraining from criminal activity and exiting the gang lifestyle should be gathered. Applicants can apply to discharge the injunction without giving notice to the respondent but should state in the application why notice has not been given.²³

9.3 Review of an injunction

Applicants should be aware of the review provisions contained in the 2009 Act. A review hearing is held for the purpose of considering whether an injunction should be varied or discharged. Review hearings may be scheduled for the following reasons:

- courts have the power to schedule a review hearing(s) of their own motion, in which case the applicant and respondent are ordered to attend one or more hearings on specified dates.²⁴
- if any prohibition or requirement of an injunction has effect for longer than one year, the court must order a review hearing and schedule it to be held within the last four weeks of the one year period.²⁵

Applicants should be prepared to present their position as to whether an injunction should be varied or discharged, drawing upon the information they have compiled in the case file. If the applicant opposes the discharge of an injunction, they will need to convince the court that the injunction remains necessary to prevent gang-related violence; if the applicant opposes variation, they will need to convince the court that the injunction remains necessary in its present form.

²³ CPR 65.45

²⁴ Section 36(3) of the 2009 Act.

²⁵ Section 36(4) of the 2009 Act

10 Breach and enforcement of an injunction

Breach of an injunction of this type is dealt with by a civil contempt of court and is not a criminal offence. However, if the respondent's behaviour constitutes a criminal offence, it should be dealt with as such and applicants should work with the CPS and police (if a local authority) to pursue criminal proceedings.

For an injunction to be effectively enforced, the police, local authorities and other appropriate partners need to be aware of an injunction's provisions and share information relevant to the case. This ensures that where breach of an injunction does occur, applicants are in a position to identify this breach and deal with it appropriately.

10.1 Consultation between partners to monitor compliance

Applicants will need to continue consultation with appropriate partners after an injunction has been granted to ensure it is managed and enforced effectively.

It is advisable for applicants to circulate details of granted injunctions to these partners at the earliest opportunity. This will need to be done by secure means. The information should include, but is not limited to: the details of the injunction, including its prohibitions, requirements and powers of arrest; personal information about the respondent (so as to make them identifiable), and any other details relevant to the application.

Partners should also be given proof that the injunction has been served on the respondent. Formal and informal means should also be established for sharing information relating to any variation, appeal, review and discharge of injunctions. This means ensuring that all involved partners are kept informed of any changes to an injunction. Responsibility for ensuring the accurate, secure and timely sharing of information lies with the applicant. See Section 3 of this guidance for further details on consultation.

10.2 Inputting information into the Police National Computer (PNC)

The recording of injunctions on the PNC will assist police forces in enforcing breaches effectively. After an injunction has been issued by a court, the relevant police force (either as the injunction applicant or on behalf of a local authority applicant) should input the injunction on the Wanted/Missing page of the PNC as a 'Gang Related Violence Injunction'. If the applicant is a local authority, they should ensure that the relevant police force is notified with this information as soon as possible after the injunction is issued. It is vital that

information is correctly entered and kept up-to-date, particularly when a power of arrest is attached to some but not all of the conditions of the injunction.

Applicants should be aware that a respondent's record of being subject to a gang injunction may be disclosed under certain circumstances. An enhanced Criminal Records Bureau check could disclose this information if the local police force considered it relevant to a job to which the respondent is applying and appropriate for the employer to know.

10.3 Compiling evidence of breach

Once an injunction has been obtained, and where it becomes apparent that it is not being complied with, applicants should begin compiling evidence of breach in preparation for any breach hearing. Information to be presented and made available to the court during a hearing could include:

- written statements regarding the breach of the injunction;
- any other evidence regarding the breach of the injunction;
- a clear summary of any previous breaches, what they were and how they were dealt with;
- any relevant authorities for sentence; and
- a revised draft injunction should the applicant be seeking to vary the provisions.

10.4 Bringing about breach hearings

Application for a breach hearing is not mandatory upon breach of an injunction. The decision to pursue a breach hearing ordinarily rests with the original applicant. However, if the power of arrest is attached to an injunction condition, breach proceedings may ensue if the police arrest a respondent for breach of that condition. The case file should record the reasoned decision-making of the applicant from becoming aware of the breach until the final decision as to whether to bring proceedings for breach.

In deciding whether to pursue breach proceedings, the applicant may want to consider:

- the seriousness of the breach;
- whether there have been any previous breaches;
- the progress the respondent is making towards the positive requirements contained in the injunction; and
- the impact of a breach hearing and sentence on the aim of the injunction to prevent gang-related violence.

10.5 Power of arrest

The court can attach the power of arrest to any prohibition or requirement of an injunction, except for a requirement that the respondent participates in particular activities. If an applicant believes that the respondent has breached a requirement to participate in a particular activity they may apply to the court for a warrant of arrest (see section 10.6).

Where power of arrest has been attached, a police officer may arrest without warrant a respondent who is reasonably suspected to be in breach of that prohibition or requirement. Upon the arrest of a respondent, the applicant (if different from the arresting officer) must be informed and the respondent brought before the relevant judge²⁶ within 24 hours. If the matter is not resolved, the respondent can be remanded in custody or on bail.

10.6 Warrant of arrest

If applicants believe that the respondent has breached a term of the injunction to which a power of arrest has not been attached they may apply to the court, using an N244 form and paying the appropriate fee for a warrant of arrest.²⁷ Applicants should also file an affidavit explaining why a warrant of arrest is necessary and/or give oral evidence in support of the application at the hearing.²⁸ Where oral evidence is given, the applicant must provide a written record of this evidence to the respondent upon their arrest.²⁹

10.7 Application for committal proceedings, forms and fees

Application notice N244 must be filed to apply for an order of committal for breach of an injunction. Please refer to the Civil Proceedings Fees Order for the fee payable.³⁰ An up-to-date indication of the amount of the court fee payable can be found in the HMCS leaflet – *EX50 Civil and Family court fees*.³¹

The requirements relating to personal service of the court order alleged to be breached are in County Court Rules Order 29 and the accompanying Practice Direction (which covers both CCR O.29 and Rules of the Supreme Court Order 52), as are details of the rules applying to applications for committal in county court proceedings.³²

²⁶ Section 43(7) of the 2009 Act defines “relevant judge” as a High Court where the injunction was granted by the High Court and a judge or district judge of the county court where the injunction was granted by the county court.

²⁷ Section 44 of the 2009 Act.

²⁸ CPR Rule 65.46(2).

²⁹ CPR Rule 65.46(3).

³⁰ Schedule 1 Fee 2.6 and 2.7 Civil Proceedings Fees Order 2008.

³¹ Available at http://www.hmcourts-service.gov.uk/courtfinder/forms/ex50_e.pdf.

³² Please see Annex C.

An application for committal in the High Court must be made in accordance with Rules of the Supreme Court Order 52 and the accompanying Practice Direction.³³ This involves making an application for permission to make an application for an order of committal (when the application is made to a Divisional Court only); filing an affidavit alongside the application notice, setting out the name and description of the applicant; the name, description and address of the respondent; and the grounds on which the application for committal is sought.

Case law confirms that the respondent is entitled to legal representation at such a hearing (should the respondent want to be legally represented) and the court may view any application to adjourn the hearing to obtain legal representation sympathetically. Evidence of breach should be disclosed in full to the respondent and their representative as soon as possible before the hearing, and there must be at least 14 clear days between the service of committal papers and the hearing.

Applicants should be aware that the court may, at any hearing, dismiss the application, adjourn the matter to another date and/or issue case management directions in relation to the hearing.

10.8 Standard of proof

For a breach hearing, the standard of proof is beyond reasonable doubt.³⁴ The applicant must therefore prove to the criminal standard of proof that the respondent has breached a term of their injunction. If the respondent denies they have breached a term of the injunction, the matter may be adjourned for witnesses to be called to give evidence. The applicant should be prepared to present clear and compelling evidence of the breach.

10.9 Remand

The court has the power to remand a respondent in custody or on bail if, after a respondent has been arrested for suspected breach of an injunction (with or without warrant), the matter has not been resolved when the respondent is brought before the judge.³⁵ The maximum time for remand in custody is eight days, unless the applicant and respondent both consent to a longer period. The applicant should be prepared to assist the court in coming to its decision and may be invited to make submissions as to whether a remand should be in custody or on bail.

The court may also remand a respondent in custody or on bail if the court considers that a medical examination and report is required. If the respondent is remanded in custody for this purpose, the adjournment may not exceed three weeks at a time; if the person is remanded on bail, the adjournment may

³³ Please see Annex C.

³⁴ Paragraph 1.4 of Practice Direction to RSC Order 52.

³⁵ Sections 43(5) and 44(4) of, and Schedule 5 to, the 2009 Act.

not exceed four weeks. The court has the power to make an order under section 35 of the Mental Health Act 1983 if it suspects the respondent is suffering from a mental disorder. Applicants should be prepared to assist the court if it has any concerns about the medical wellbeing of the respondent.

10.10 Breach sanction

Breach of an injunction is dealt with by a civil contempt of court, which is punishable by up to two years in prison and/or an unlimited fine.³⁶ Since the sentence is civil and not criminal, the respondent will not receive a criminal record for breach even if committed to prison. This is advantageous for two reasons: relatives and close friends of the respondent are more likely to give evidence against the respondent if they know the penalty for breach will not lead to a criminal record, and it allows for a more rehabilitative approach by avoiding the negative future impacts associated with a criminal record. However, see section 10.2 about potential future disclosure.

³⁶ Section 14(4A) of the Contempt of Court Act 1981 (as amended by the County Courts (Penalties for Contempt) Act 1983).

11 Appealing an injunction

Appeals may be lodged by both the applicant and respondent following the granting, refusal, variation or discharge of an injunction. Appeals of decisions made by a county court or the High Court are governed by Part 52 of the Civil Procedure Rules. Applicants and respondents should ensure they have read and understood the provisions of Part 52 and Practice Direction 52 before seeking to file an appeal.

Appeals against orders made by district judges in the county court should be made to a circuit judge; appeals against orders made by circuit judges in the county court should be made to the Court of Appeal.

Applications for permission to appeal must normally be filed within 21 days of the court decision, or within any shorter period specified by the court. Applicants must also file a skeleton argument detailing the grounds for their appeal within 14 days after filing the appeal notice (except in an appeal against a decision to refuse to grant an injunction under section 41 of the 2009 Act).

11.1 Appealing an injunction made ‘with notice’

In relation to ‘with notice’ injunctions, applicants must give notice of their appeal to the respondent as soon as possible and, in any event, no later than 7 days after the appeal is filed.

11.2 Appealing an injunction made ‘without notice’

In relation to ‘without notice’ injunctions, the applicant is not required to give notice to the respondent when appealing a court decision to refuse to grant an interim injunction (when the court has already adjourned proceedings).³⁷

However, the applicant is required to give notice to the respondent when appealing a court decision to dismiss an injunction application ‘without notice’ (when the court has already decided against adjourning proceedings).

³⁷ CPR 52.4(4).

12 Promoting awareness of gang injunctions

12.1 Communicating the use or intended use of gang injunctions

Applicants may wish to communicate that they are using, or are intending to use, gang injunctions in the local area. Communicating this information may increase community confidence in the local response to gang problems, reassure the community that gang-related violence can be reported safely, and act as a deterrent against joining gangs or perpetrating violence as part of a gang. General information about gang injunctions may be communicated through consultation partners, the local press and media, or any other appropriate medium.

12.2 Publicising details of particular gang injunctions

Publicising the details of a respondent could put them at risk of harm from rival gangs and may breach their human rights. Applicants should take into account any court orders relating to disclosure and are encouraged to be mindful of the risks associated with publicity, to consider the value and appropriateness of publicity on a case by case basis, and to obtain legal advice about these and other data protection concerns before publicising these details. However, applicants may decide that the benefits of publicising a particular injunction are significant and that publicity is appropriate. The following considerations are important to this decision:

- Safety – would public disclosure of the respondent's name and other personal details generate risks to their personal safety (or that of family, partner(s) or associates) by, for example, identifying them with a particular gang and so risking reprisal attacks from rival gangs?
- Human rights – would public disclosure of a respondent's details breach their human rights, including any data protection issues? The aims of the injunction and rights of the community should always be balanced against the rights of the respondent.
- Enforcement – would public disclosure of a respondent's details reduce the likelihood of breach and improve enforcement?
- Deterrence – would publicity about particular injunctions act as a significant deterrent to other potential perpetrators? Would the respondent be less likely to breach the injunction and encouraged to leave the gang as a result of the community's awareness about the injunction?
- Public reassurance – where sections of a community have been particularly affected by the behaviour of the respondent, they may be reassured that the police and local authorities are taking action against this violence.

13 Monitoring and review

13.1 The importance of case file management

The case file is used to record all available and relevant information pertaining to a particular injunction. This should include:

- the injunction, including all the prohibitions, requirements, duration and powers of arrest;
- personal information about the respondent, including their name, age, address, a recent photograph and summary of past conduct;
- a list of all involved partners, including individuals and their contact details;
- any publicity strategy developed by the applicant;
- breach information, including all reported evidence of breach and the reasoned decision(s) of the applicant as to whether to pursue breach hearing(s);
- information on the variation, discharge, appeal and review of the injunction; and
- any other information deemed relevant to the injunction.

Effective case file management is essential if accurate and current information about the respondent and associated injunction is to be maintained. Accurate information will support effective and efficient enforcement, information sharing and court proceedings. It will ensure against wrongful arrests and misinformation through publicity activities. The local authority, police and other partners should circulate new information for the applicant to add to the case file. It is the responsibility of the applicant to manage and update the case file.

13.2 Need for consistent and effective data collection for the purpose of a Parliamentary review

Section 50 of the Policing and Crime Act 2009 requires the Secretary of State to review the implementation of gang injunctions and table before Parliament a report on the outcome of this review within three years of their commencement. The requirement to submit this review was built into the 2009 Act for two reasons: firstly, to ensure that gang injunctions are being used as they were intended and secondly, to gauge their effectiveness in tackling gang-related violence.

To ensure the Secretary of State is able to lay such a report before Parliament, police forces and local authorities are encouraged to monitor their use of gang injunctions and to share this information with the Home Office. Monitoring information provided by applicants will be used to inform this review.

Applicants are encouraged to submit monitoring information according to the instructions on the Home Office website:

<http://www.homeoffice.gov.uk/gang-related-violence>

13.3 Equality Impact Assessment

There is a legal obligation to undertake an equalities impact assessment (EIA) in relation to race, disability and gender when public bodies are developing new or existing policies. In accordance with best practice, it is suggested that the following areas should be considered:

- race
- disability
- gender
- gender identity
- religion and belief
- sexual orientation; and
- age

In accordance with legal requirements, an EIA was published alongside the 2009 Act.

This statutory guidance has undergone checks from an equalities perspective to ensure the 2009 Act has not been interpreted in such a way as to discriminate against any group.

Annex A

Part 4 and Schedule 5 to the Policing and Crime Act 2009

PART 4

INJUNCTIONS: GANG-RELATED VIOLENCE

Power to grant injunctions

34 Injunctions to prevent gang-related violence

- (1) A court may grant an injunction under this section if 2 conditions are met.
- (2) The first condition is that the court is satisfied on the balance of probabilities that the respondent has engaged in, or has encouraged or assisted, gang-related violence.
- (3) The second condition is that the court thinks it is necessary to grant the injunction for either or both of the following purposes—
 - (a) to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence;
 - (b) to protect the respondent from gang-related violence.
- (4) An injunction under this section may (for either or both of those purposes)—
 - (a) prohibit the respondent from doing anything described in the injunction;
 - (b) require the respondent to do anything described in the injunction.
- (5) In this section “gang-related violence” means violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that—
 - (a) consists of at least 3 people,
 - (b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group, and
 - (c) is associated with a particular area.

Contents of injunctions

35 Contents of injunctions

- (1) This section applies in relation to an injunction under section 34.
- (2) The prohibitions included in the injunction may, in particular, have the effect of prohibiting the respondent from—
 - (a) being in a particular place;
 - (b) being with particular persons in a particular place;
 - (c) being in charge of a particular species of animal in a particular place;
 - (d) wearing particular descriptions of articles of clothing in a particular place;
 - (e) using the internet to facilitate or encourage violence.
- (3) The requirements included in the injunction may, in particular, have the effect of requiring the respondent to—
 - (a) notify the person who applied for the injunction of the respondent’s address and of any change to that address;
 - (b) be at a particular place between particular times on particular days;
 - (c) present himself or herself to a particular person at a place where he or she is required to be between particular times on particular days;
 - (d) participate in particular activities between particular times on particular days.
- (4) A requirement of the kind mentioned in subsection (3)(b) may not be such as to require the respondent to be at a particular place for more than 8 hours in any day.

- (5) The prohibitions and requirements included in the injunction must, so far as practicable, be such as to avoid—
 - (a) any conflict with the respondent's religious beliefs, and
 - (b) any interference with the times, if any, at which the respondent normally works or attends any educational establishment.
- (6) Nothing in subsection (2) or (3) affects the generality of section 34(4).
- (7) In subsection (2) "place" includes an area.

36 Contents of injunctions: supplemental

- (1) This section applies in relation to an injunction under section 34.
- (2) The injunction may not include a prohibition or requirement that has effect after the end of the period of 2 years beginning with the day on which the injunction is granted ("the injunction date").
- (3) The court may order the applicant and the respondent to attend one or more review hearings on a specified date or dates.
- (4) If any prohibition or requirement in the injunction is to have effect after the end of the period of 1 year beginning with the injunction date, the court must order the applicant and the respondent to attend a review hearing on a specified date within the last 4 weeks of the 1 year period (whether or not the court orders them to attend any other review hearings).
- (5) A review hearing is a hearing held for the purpose of considering whether the injunction should be varied or discharged.
- (6) The court may attach a power of arrest in relation to—
 - (a) any prohibition in the injunction, or
 - (b) any requirement in the injunction, other than one which has the effect of requiring the respondent to participate in particular activities.
- (7) If the court attaches a power of arrest, it may specify that the power is to have effect for a shorter period than the prohibition or requirement to which it relates.

Applications

37 Applications for injunctions under section 34

- (1) An application for an injunction under section 34 may be made by—
 - (a) the chief officer of police for a police area,
 - (b) the chief constable of the British Transport Police Force, or
 - (c) a local authority.
- (2) In this Part "local authority" means—
 - (a) in relation to England, a district council, a county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
 - (b) in relation to Wales, a county council or a county borough council.

38 Consultation by applicants for injunctions

- (1) Before applying for an injunction under section 37, the applicant must comply with the consultation requirement.
- (2) The consultation requirement is that the applicant must consult—
 - (a) any local authority, and any chief police officer, that the applicant thinks it appropriate to consult, and
 - (b) any other body or individual that the applicant thinks it appropriate to consult.

39 Applications without notice

- (1) An application under section 37 may be made without the respondent being given notice.
- (2) In this Part, such an application is referred to as an application without notice.

- (3) Section 38(1) does not apply in relation to an application without notice.
- (4) If an application without notice is made the court must either—
 - (a) dismiss the application, or
 - (b) adjourn the proceedings.
- (5) If the court acts under subsection (4)(b), the applicant must comply with the consultation requirement before the date of the first full hearing.
- (6) In this section “full hearing” means a hearing of which notice has been given to the applicant and respondent in accordance with rules of court.

Interim injunctions

40 Interim injunctions: adjournment of on notice hearing

- (1) This section applies if—
 - (a) the court adjourns the hearing of an application for an injunction under section 34, and
 - (b) the respondent was notified of the hearing in accordance with rules of court.
- (2) The court may grant an interim injunction if it thinks that it is just and convenient to do so.
- (3) An interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

41 Interim injunctions: adjournment of without notice hearing

- (1) This section applies if—
 - (a) an application without notice is made by virtue of section 39, and
 - (b) the proceedings are adjourned (otherwise than at a full hearing within the meaning of that section).
- (2) The court may grant an interim injunction if it thinks that it is necessary to do so.
- (3) An interim injunction under this section may not have the effect of requiring the respondent to participate in particular activities.
- (4) Except as provided by subsection (3), an interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

Variation and discharge

42 Variation or discharge of injunctions

- (1) The court may vary or discharge an injunction under this Part if—
 - (a) a review hearing is held, or
 - (b) an application to vary or discharge the injunction is made.
- (2) An application to vary or discharge the injunction may be made by—
 - (a) the person who applied for the injunction;
 - (b) the respondent.
- (3) The power to vary an injunction includes power to—
 - (a) include an additional prohibition or requirement in the injunction;
 - (b) extend the period for which a prohibition or requirement in the injunction has effect (subject to section 36(2));
 - (c) attach a power of arrest or extend the period for which a power of arrest attached to the injunction has effect.
- (4) Section 36(4) does not apply where an injunction is varied to include a prohibition or requirement which is to have effect as mentioned in that provision but the variation is made within (or at any time after) the period of 4 weeks mentioned in it.
- (5) Before applying for the variation or discharge of an injunction, a person mentioned in subsection (2)(a) must notify the persons consulted under section 38(1) or 39(5).

Arrest and remand

43 Arrest without warrant

- (1) This section applies if a power of arrest is attached to a provision of an injunction under this Part.
- (2) A constable may arrest without warrant a person whom the constable has reasonable cause to suspect to be in breach of the provision.
- (3) If a constable arrests a person under subsection (2), the constable must inform the person who applied for the injunction.
- (4) A person arrested under subsection (2) must be brought before a relevant judge within the period of 24 hours beginning with the time of the arrest.
- (5) If the matter is not disposed of when the person is brought before the judge, the judge may remand the person.
- (6) In calculating when the period of 24 hours mentioned in subsection (4) ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
- (7) In this Part “relevant judge”, in relation to an injunction, means—
 - (a) where the injunction was granted by the High Court, a judge of that court;
 - (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court.

44 Issue of warrant of arrest

- (1) This section applies in relation to an injunction under this Part.
- (2) If the person who applied for the injunction considers that the respondent is in breach of any of its provisions, the person may apply to a relevant judge for the issue of a warrant for the arrest of the respondent.
- (3) A relevant judge may not issue a warrant on an application under subsection (2) unless the judge has reasonable grounds for believing that the respondent is in breach of any provision of the injunction.
- (4) If a person is brought before a court by virtue of a warrant under subsection (3), but the matter is not disposed of, the court may remand the person.

45 Remand for medical examination and report

- (1) This section applies in relation to a person who is brought before the relevant judge or the court under section 43 or 44.
- (2) If the relevant judge or the court has reason to consider that a medical report will be required, the judge or the court may remand the person under section 43(5) or (as the case may be) 44(4) for the purpose of enabling a medical examination to take place and a report to be made.
- (3) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.
- (4) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (5) If the relevant judge or the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health Act 1983, the judge or the court has the same power to make an order under section 35 of that Act (remand for report on accused’s medical condition) as the Crown Court has under that section in the case of an accused person (within the meaning of that section).

46 Further provision about remands

Schedule 5 (which makes further provision about the remand of a person under sections 43(5) and 44(4)) has effect.

Miscellaneous

47 Guidance

- (1) The Secretary of State must issue guidance relating to injunctions under this Part.
- (2) The Secretary of State may revise any guidance issued under subsection (1).
- (3) Before issuing or revising any guidance under this section the Secretary of State must consult the Lord Chief Justice of England and Wales and such other persons as the Secretary of State thinks appropriate.
- (4) The Secretary of State must lay any guidance issued or revised under this section before Parliament.

- (5) The Secretary of State must publish any guidance issued or revised under this section.
- (6) Each of the following must have regard to any guidance published under subsection (5)—
 - (a) a chief officer of police for a police area;
 - (b) the chief constable of the British Transport Police Force;
 - (c) a local authority.

48 Supplemental

- (1) Rules of court may provide that any power conferred on a county court to grant, vary or discharge an injunction under this Part may be exercised by a judge or district judge of that court.
- (2) Rules of court may provide that an appeal from a decision of the High Court or county court to which this subsection applies may be made without notice being given to the respondent.
- (3) Subsection (2) applies to a decision to refuse to grant an interim injunction under section 41.

49 Interpretation

- (1) In this Part—
 - “application without notice” has the meaning given by section 39(2);
 - “consultation requirement” has the meaning given by section 38(2);
 - “court” means the High Court or a county court;
 - “local authority” has the meaning given by section 37(2);
 - “relevant judge” has the meaning given by section 43(7);
 - “respondent” means the person in respect of whom an application for an injunction is made or (as the context requires) the person against whom such an injunction is granted;
 - “review hearing” has the meaning given by section 36(5);
 - “specify”, in relation to an injunction, means specify in the injunction;
 - “violence” includes violence against property.
- (2) Any reference in this Part to an injunction under this Part includes a reference to an interim injunction.

50 Review of operation of this Part

- (1) The Secretary of State must—
 - (a) review the operation of this Part, and
 - (b) prepare and publish a report on the outcome of the review.
- (2) The report must be published before the end of the period of 3 years beginning with the day on which this Part comes into force.
- (3) The Secretary of State must lay the report before Parliament.

SCHEDULE 5
INJUNCTIONS: POWERS TO REMAND

Introductory

- 1 (1) The provisions of this Schedule apply where the court has power to remand a person under section 43(5) or 44(4).
- (2) In this Schedule, “the court” means the High Court or a county court and includes—
- (a) in relation to the High Court, a judge of that court, and
 - (b) in relation to a county court, a judge or district judge of that court.

Remand in custody or on bail

- 2 (1) The court may—
- (a) remand the person in custody, that is, commit the person to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or
 - (b) remand the person on bail.
- (2) The court may remand the person on bail—
- (a) by taking from the person a recognizance, with or without sureties, conditioned as provided in paragraph 3, or
 - (b) by fixing the amount of the recognizances with a view to their being taken subsequently and, in the meantime, committing the person to custody as mentioned in sub-paragraph (1)(a).
- (3) Where a person is brought before the court after remand, the court may further remand the person.
- 3 (1) Where a person is remanded on bail, the court may direct that the person’s recognizance be conditioned for the person’s appearance—
- (a) before that court at the end of the period of remand, or
 - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognizance is conditioned for a person’s appearance as mentioned in sub-paragraph (1)(b), the fixing of any time for the person next to appear is to be treated as a remand.
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand the person afresh.
- 4 (1) The court may not remand a person for a period exceeding 8 clear days unless—
- (a) the person is remanded on bail, and
 - (b) both that person and the person who applied for the injunction consent to a longer period.
- (2) Where the court has power to remand a person in custody it may, if the remand is for a period not exceeding 3 clear days, commit the person to the custody of a constable.

Further remand

- 5 (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period of remand, the court may, in the absence of the person, further remand the person.
- (2) The power mentioned in sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person’s recognizance and those of any sureties for the person to a later time.
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand the person under sub-paragraph (1), the court may (in the person’s absence) enlarge the person’s recognizance and those of any sureties for the person to a later time.
- (4) The enlargement of the person’s recognizance is to be treated as a further remand.
- (5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

Postponement of taking recognizance

- 6 Where under paragraph 2(2)(b) the court fixes the amount in which the principal and the sureties, if any, are to be bound, the recognizance may afterwards be taken by such person as may be prescribed by rules of court, with the same consequences as if it had been entered into before the court.

Requirements imposed on remand on bail

- 7 The court may when remanding a person on bail under this Schedule require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

Annex B

Key Civil Procedure Rules and Practice Directions

Civil Procedure Rule 65 (proceedings relating to anti-social behaviour and harassment) and Practice Direction 65

Practice Direction 2B (allocation of cases to levels of judiciary)

Civil Procedure Rule 30 (transfer)

Civil Procedure Rule 52 (appeals) and Practice Direction 52

These can be found on the Ministry of Justice website here:

http://www.justice.gov.uk/civil/procrules_fin/menus/sched_ccr.htm

Annex C

Rules of the Supreme Court Order 52 and supplementary Practice Directions; County Court Rules Order 29

Rules of the Supreme Court Order 52 and supplementary Practice Directions can be found on the Ministry of Justice website here:

http://www.justice.gov.uk/civil/procrules_fin/menus/sched_rsc.htm

County Court Rules Order 29 can be found on the Ministry of Justice website here:

http://www.justice.gov.uk/civil/procrules_fin/contents/schedule2/ccrorder29.htm

Annex D

Links to Form N16A: Applying for an Injunction and Form N244: Application for notice (for breach, variation and discharge of an injunction)

These forms can be found on the Ministry of Justice website here:

<http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do>



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